

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, and DAWN BUCKINGHAM, M.D., in her official capacity as Commissioner of the Texas General Land Office,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY; and ALEJANDRO MAYORKAS, in his official capacity as Secretary of the Department of Homeland Security,

Defendants.

Civil Action No. 7:21-cv-00272

THE STATE OF MISSOURI; THE STATE OF TEXAS,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as President of the United States, *et al.*,

Defendants.

Civil Action No. 7:21-cv-00420
(formerly No. 6:21-cv-00052)

**JOINT MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATION AND
RESPONSE BRIEF**

The parties in the above-captioned cases jointly move for leave to permit Defendants to file a supplemental declaration with updated information about the status of the Department of Homeland Security's border barrier system appropriations and for Plaintiffs to file a combined

brief in response to Defendants' recent sur-reply and the supplemental declaration. The parties have conferred and agree there is good cause to grant this requested relief.

Following the transfer of these cases to this Court, Defendants filed a supplemental brief on August 18, 2023, in opposition to Plaintiffs' pending motion for a preliminary injunction. *See* ECF Nos. 96. Plaintiffs filed a supplemental brief in support of their motion on September 15, 2023. *See* ECF No. 101. Defendants thereafter sought leave to file a sur-reply in response to certain arguments in Plaintiffs' supplemental brief. *See* ECF No. 105. In seeking this relief, Defendants represented that they did not oppose the Court granting leave for Plaintiffs to file a brief in response to Defendants' sur-reply. *See id.* at 4. The Court granted Defendants' motion on September 29, 2023. *See* ECF No. 106.

Since Defendants filed their supplemental brief in August, the Department of Homeland Security awarded additional contracts prior to the end of the recent federal fiscal year using funding from its border barrier system appropriations. Additionally, the Secretary of Homeland Security exercised his authority under § 102(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act, as amended, to waive various legal requirements "to ensure the expeditious construction" of the new barrier system project in Starr County, Texas, discussed in Defendants' supplemental brief. *See* Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 88 Fed. Reg. 69214 (Oct. 5, 2023); *see* ECF No. 96 at 11. To update the Court and Plaintiffs about these recent developments relevant to the pending motion for preliminary injunction, Defendants request leave to file the attached declaration of Paul Enriquez. *See* Fifth Declaration of Paul Enriquez (attached as Exhibit 1).

The parties agree that Plaintiffs should have an opportunity to respond to Defendants' sur-reply (ECF No. 107) and the Fifth Enriquez Declaration. Plaintiffs therefore request leave to submit a combined response brief limited to those two documents on or before October 31, 2023.

A proposed order is attached.

Date: October 17, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2023, I electronically filed a copy of the foregoing joint motion. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Andrew I. Warden

ANDREW I. WARDEN